

“OUTSIDE HIRES”

Conflicts and Outside Activities-
Things to Consider



Common Denominators

- Considerable Assets-“Millionaire’s Club”
- Myriad of Outside Affiliations
- On-going business relationships (even academics have “side businesses”)
- Clueless about how the Government Works

Making a Smooth Transition to Government Service

- Ensuring Potential Employees Understand Differences in Hiring Mechanisms-Informed Choices (not as critical now (for ethics) as IPAs are under EGA))
- “Vetting” Potential Employees-Understanding **BEFORE** an offer is accepted what ethics challenges exist
- One-on-One Incoming Briefings-Provides an opportunity to discuss personal issues; making sure they understand 18 U.S.C. 208 and other laws

Typical Problem Areas

- Stock holdings in companies who are or are likely to be performers in the potential employee's program area.
 - Divestiture (Eligibility for Certificate of Divestiture)
 - Recusal/Partial Recusal (Procurement Situation)-Type of solicitation does matter
 - Statutory Waiver

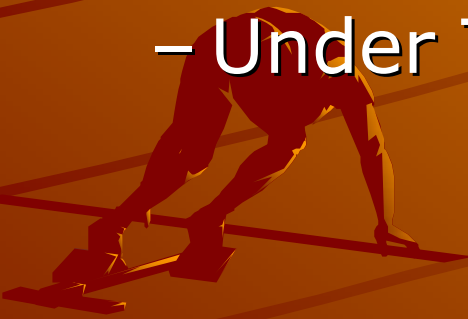


Typical Problem Areas

- Continuing Business Relationships
 - Ownership in Company/Venture Capital Firm
 - Beyond 208
 - Program Area Overlap (appearance, allegation of disclosure of proprietary information)
 - Type of Business (General Partnership or Corporation)
 - What about clients? Program Performers?
 - Other Government Agencies (Dual Hatted) (203/205)
 - Federal Acquisition Regulations (FARS) Restrictions on Awards to Employees
 - What is potential employee's affiliation? Stakeholder? Officer or Company?

Typical Problem Areas

- Intellectual Property (IP) Rights
 - Performer can potentially propose using IP where proposed employee is owner or has royalty rights
 - Under Technology Transfer Act?



Typical Problem Areas

- Membership/Proposed Membership on Boards of Directors
 - Not in Official Capacity
 - Liaison
 - Personal Capacity



Recommendations

- Identify/Address these issues **PRIOR** to employment
- Work closely with the proposed employee's intended supervisors to resolve conflicts
- Understand how ethics matters are impacted by other areas of law
- Develop a relationship with your **"CLIENTS"**